

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
WESTERN DIVISION
No. 5:17-CV-272-D

KIMBERLY T. SPENCE, and
WILLIAM M. WINDSOR,

Plaintiffs,

v.

CARL. L. WILLIS, et al.,

Defendants.

ORDER

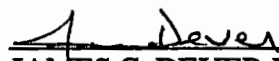
On June 7, 2017, Kimberly T. Spence (“Spence” or “plaintiff”) filed a motion to proceed in forma pauperis [D.E. 1] and an “Emergency Permanent Notice of Removal” [D.E. 1–2] with over 100 pages of documents concerning various state and federal court actions in various jurisdictions [D.E. 1–4]. On June 15, 2017, Spence filed an addendum to her initial pleadings [D.E. 4]. On June 20, 2017, the court referred the motion to United States Magistrate Judge Swank for a frivolity review [D.E. 5]. On October 31, 2017, Magistrate Judge Swank issued a Memorandum and Recommendation (“M&R”) and recommended that Spence’s application to proceed in forma pauperis be granted and that the complaint be dismissed as frivolous. [D.E. 12]

“The Federal Magistrates Act requires a district court to make a de novo determination of those portions of the magistrate judge’s report or specified proposed findings or recommendations to which objection is made.” Diamond v. Colonial Life & Accident Ins. Co., 416 F.3d 310, 315 (4th Cir. 2005) (emphasis, alteration, and quotation omitted); see 28 U.S.C. § 636(b). Absent a timely objection, “a district court need not conduct a de novo review, but instead must only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.” Diamond, 416 F.3d at 315 (quotation omitted).

The court has reviewed the M&R, the record, and Spence's objections. As for those portions of the M&R to which Spence made no objection, the court is satisfied that there is no clear error on the face of the record. As for the objections, the court has reviewed the objections and the M&R de novo. Spence's objections are baseless and are overruled. The court adopts the conclusions in the M&R.

In sum, Spence's applications to proceed in forma pauperis [D.E. 1, 7] are GRANTED, and Spence's complaint is DISMISSED as frivolous. Spence's motion for summary judgment [D.E. 9], and motion to compel [D.E. 10] are DISMISSED. The court construes the emergency permanent notice of appeal [D.E. 15] as an interlocutory appeal [D.E. 17]. The United States Court of Appeals for the Fourth Circuit will address the appropriateness of that interlocutory appeal. See Fed. R. App. P. 3(a)(2); Porter v. Zook, 803 F.3d 694, 696 (4th Cir. 2015). If Spence wants to appeal this order, Spence must file a notice of appeal of this order in accordance with Federal Rule of Appellate Procedure 3(a)(1) and 4(a)(1). The clerk shall close the case.

SO ORDERED. This 18 day of December 2017.



JAMES C. DEVER III
Chief United States District Judge